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Congress of the United States

House of Representatives

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March 17, 2006

HENRY A. WAXMAN, CALIFORNIA,
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Robert Essner
Chairman, President and Chief Executive
Wyeth
5 Giralda Farms
Madison, NJ 07940

Dear Mr. Essner:

I am contacting you regarding the Combat Methamphetamine Epidemic Act of 2005. As I am sure you are aware, the Combat Meth Act was passed as part of the USA PATRIOT Act, and just signed into law by President Bush on March 9th.¹

As Congress was working to pass comprehensive legislation to address the devastating, national methamphetamine epidemic, Wyeth heavily lobbied Members on several aspects of the bill. In particular, Wyeth strongly, and successfully, advocated changing the original date for a key provision of the legislation to become effective from June 30, 2006, to September 30, 2006.

At the time, Wyeth told Congress, "We estimate that it will take until September 2006 for the industry to have all monograph PSE-containing products reformulated with Phenylephrine and available.... Wyeth Consumer Healthcare will be significantly harmed by a June 30, 2006 effective date."²

Wyeth successfully promoted the "Importance of September 2006"³ as its preferred date for compliance, noting that such a timeframe was "in sync with retailers' traditional planning and shelf stocking timeframes,"⁴ and allowed retailers to sell current inventory and obtain new product. The Wyeth document claimed this would save Wyeth

¹ Pub. L. No. 109-177.

² "Federal PSE Legislation, Potential Impact," a document presented on behalf of Wyeth Consumer Healthcare, to House Members and Staff, final November 3, 2005 – 6:30 pm. This document is on file with the Subcommittee on Criminal Justice, Drug Policy and Human Resources, Committee on Government Reform, U.S. House of Representatives.

³ Id.

⁴ Id.

from an anticipated \$60 to \$70 million “economic impact” resulting from returns and lost sales.⁵

Having been successful in its effort to postpone by three months the effective date for the retail transactions provision of this new law in order to allow Wyeth to sell more of its inventory of pseudoephedrine-containing products – the very products used by methamphetamine cooks to make their deadly poison – I was recently informed that Wyeth is seeking ways to change the effective date for other provisions of the Combat Meth Act.

It would be very helpful to me to understand the reasons for Wyeth’s new effort. My staff has requested such information from Wyeth repeatedly, without success. However, multiple sources in Congress have reported to the Subcommittee that Wyeth is now claiming that the (previously Wyeth-supported) September 30, 2006 effective date is not enough, and that now Wyeth is seeking another change in this law in order to overcome a potential financial burden for the company.

If this is true, I find the claim baffling, in light of Wyeth’s most recent 10-K Annual Report filed with the Securities and Exchange Commission, for fiscal year ending December 31, 2005. In this official filing, Wyeth acknowledged the then-pending federal legislation, as well as legislation already enacted in 34 states, restricting access to pseudoephedrine-containing products: “the Company believes the impact from the restrictive access of PSE-containing products on its consolidated statements of operations ***will not be material***” (emphasis added).⁶

Mr. Essner, if Wyeth representatives are now telling Members of Congress that the final Combat Meth Act – drafted to meet Wyeth’s concerns – will cause a significant impact on the company, this directly conflicts Wyeth’s recently-filed 10-K Report. Which claim is true?

It is a very serious matter if either the Congress is being misled, or Wyeth’s shareholders are being misled. I hope you can quickly clear this up.

The September 30 effective date extension, in response to Wyeth’s lobbying efforts, was a reluctant compromise in the face of industry opposition for Members of Congress who are anxious to prevent the criminal use of PSE-containing products. Delays in implementation at this stage, for any of the provisions of this new law, only give criminals additional time to produce their poison.

The effective dates for implementation of various provisions of the Combat Meth Act reflect tedious negotiations with the same interests who have blocked pseudoephedrine control for a decade. Wyeth was heavily involved in these efforts. There are no drafting errors in this law.

⁵ Id.

⁶ 10-K Annual Report for the Year Ended December 31, 2005, by Wyeth.

I strongly believe that to now open up and attempt to change the recently signed USA PATRIOT Act – the one and only national law to address the horrible methamphetamine problem – is the first effort aimed towards a slippery slope of pharmaceutical-company conceived obstacles and delays. I will not stand for this and will oppose any such tactics designed to stall the full implementation of this law.

I have enclosed a recent news clip detailing the hazmat clean up of a meth lab dump site in Fort Lewis, Washington: “Along with the propane tanks and gas cans, [hazardous waste team workers] found chemicals and a trash bag containing empty boxes of Alavert [one of Wyeth’s PSE-containing products], Sudafed and other products containing pseudoephedrine.”⁷

That meth cooks are using Wyeth’s PSE-containing products is nothing new. That Wyeth’s PSE-containing products will remain easily accessible to them through September (at Wyeth’s urging) is undesirable, but part of the current law just signed by the President. That Wyeth is seeking changes in an eight day-old law is distressing.

Wyeth’s efforts to open and amend the Combat Meth Act are difficult to understand, especially in light of the growing national alarm over the methamphetamine epidemic, and public discontent with pharmaceutical companies. Would you therefore be willing to share documentation for your new position with the Subcommittee and the Securities and Exchange Commission? Any materials you can share will be helpful for understanding Wyeth’s conflicting positions.

Sincerely,



Mark E. Souder

Chairman

Subcommittee on Criminal Justice, Drug Policy and
Human Resources

Government Reform Committee

Enclosure

CC: The Hon. Jim Talent, U.S. Senate
The Hon. Diane Feinstein, U.S. Senate

⁷ Tammy Reed, “Cleaning up illegal dump sites keeps workers busy,” Northwest Guardian, December 8, 2005. At <http://www.nwguardian.com/news/story/5384770p-4868353c.html> (last visited March 16, 2006).



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Cleaning up illegal dump sites keeps workers busy

Meth lab waste threatens training area safety

By Tammy Reed, Public Affairs Office

Published: December 8th, 2005 12:40 PM

At first glance, the pile of trash littering a training range on Fort Lewis looked a lot like many of the other piles of junk illegally dumped on the post each year.

But, upon closer examination, this one took a dangerous turn. The propane tanks and gas cans found late last month were warning signs that this dump site could be the remains of a methamphetamine lab. The Fort Lewis military police finding the site recognized those signs and called the Hazardous Materials/Hazardous Waste team from Fort Lewis' Environmental Services.

Jim Sheline, an environmental protection specialist, answered the call. "I provide a lot of training to the MPs, range control and AKAL security guards to help them recognize clandestine meth labs and dumps," Sheline said.

"I even train the senior Soldiers who will supervise other Soldiers during the spring and fall post cleanups." "For every five calls we get, we might have one confirmed site. But, we'd rather go out and look through the garbage and rule it out, than have someone stumble onto a meth dump filled with dangerous chemicals." Sheline took team member Dale Hastings with him to check out the dump site.

Along with the propane tanks and gas cans, they found chemicals and a trash bag containing empty boxes of Alavert, Sudafed and other products containing pseudoephedrine, confirming this was indeed a meth dump site. After covering the site and putting yellow warning tape around it, they returned to Environmental Services. There they planned a cleanup with the rest of their Hazmat crew as some of the materials used to make meth are either highly flammable, corrosive acids, deadly to inhale or a combination of all of these and more.

"These are hazardous wastes that we are dealing with," said Environmental Services program manager Tom Curcio. "We have a certain way we have to dispose of such material." For this site, and the numerous others found on post, that way included a safety briefing, three trucks, safety monitors and the white suits, boots and masks reminiscent of astronauts from another planet. The briefing and the equipment have been rolled out for approximately 100 documented cases of meth-related cleanups on Fort Lewis since 1994, according to Sheline.

"Almost all of the sites have been in the training areas beyond the fence, but we did find one behind Madigan one year," Sheline said. Although the Environmental Services crew could only speculate as to why they had the highest number of cases in 2000, they did think that expanding the military police patrols to the outer training ranges later that year helped



Tammy Reed

Jim Sheline and Tony Houston measure a propane tank to see if it holds propane or anhydrous ammonia which is used to make meth.

cut the number of meth sites since then.

Environmental Services recently hired environmental protection assistant Greg Mason to investigate and help curtail illegal dumping on post, which, in turn, should also help reduce the number of meth sites. "My job on this meth dump site and on all the illegal dump sites is to try to determine who the site belongs to and find them," Mason said. "We're also trying to prevent illegal dumping from happening on Fort Lewis by installing surveillance equipment and by asking for the surrounding communities' help."

Mason wants those community members and everyone on Fort Lewis to know that there is someone other than the police to call if they see anyone dumping trash on Fort Lewis, or if they see a dump site. "The police have a different job altogether," he said, "but investigating and trying to stop the illegal dumping is what I've been hired to do, and I will gladly take those calls."

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